

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BRIAN H. STOKER,

Defendant

Case No. 11-CIV-7388 (JSR)

DEFENDANT BRIAN H. STOKER'S SUPPLEMENTAL BRIEF
IN SUPPORT OF HIS MOTION IN LIMINE NO. 5 TO
EXCLUDE DESIGNATIONS FROM HIS
INVESTIGATIVE AND DEPOSITION TESTIMONY

During the July 12, 2012 Pretrial Hearing, the Court proposed that if Mr. Stoker agreed to withhold the filing of any motion for judgment as a matter of law until the close of all evidence, then the Court would grant Mr. Stoker's motion in limine no. 5, to exclude as cumulative the SEC's designations of Mr. Stoker's investigative and deposition testimony. Mr. Stoker accepts the Court's proposal. Based on the SEC's representation that it will not call Mr. Stoker as a witness, and on the understanding that Mr. Stoker's prior testimony will not be read into evidence in the SEC's case, Mr. Stoker will waive the filing of a motion for judgment as a matter of law at the close of the SEC's case. Mr. Stoker will be called to testify during the defense case, and the SEC may use his prior testimony on cross examination. To the extent the prior testimony is used in this manner, Mr. Stoker reserves his objections to specific portions of the SEC's designations and his requests for additional passages to be considered under Rule 106, as set forth in Docket No. 68-3 (July 9, 2012).

Dated: July 13, 2012

Respectfully submitted,

By: /s/ John W. Kecker

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